

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RICKY LYNN NELSON,

Petitioner,

v.

Case Number 06-CV-10190

RAYMOND BOOKER,

Respondent.

**OPINION AND ORDER DIRECTING SUPPLEMENTAL RESPONSE FROM
RESPONDENT ADDRESSING THE MERITS OF PETITIONER'S PETITION**

I. INTRODUCTION

Petitioner Ricky Lynn Nelson, presently confined at the Ryan Correctional Facility in Detroit, Michigan, has filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his state-court conviction for possession with intent to distribute over 650 grams of cocaine, Mich. Comp. Laws § 333.7401(2)(a)(i).

Respondent, through the Michigan Attorney General's Office, has filed an answer to the petition, urging this court to dismiss the petition for writ of habeas corpus. Although Petitioner did nothing more than append the briefs filed and the decisions rendered in Michigan courts, apparently challenging the constitutional soundness of those courts' determinations and fairly clearly limiting his claims to those same matters, Respondent urged this court that the petition contains claims which were *not* addressed in the Michigan courts; Respondent has not addressed the merits of Petitioner's claims in his answer. Having reviewed the pleadings in this case, the court finds that a proper answer is needed in order to resolve the issues of the petition.

II. DISCUSSION

A habeas petitioner challenging the legality of his or her state custody is entitled to a reasonably prompt disposition of his or her habeas petition. *Ukawabutu v. Morton*, 997 F. Supp. 605, 610 (D.N.J. 1998). This court has the discretion under the rules governing responses in habeas corpus cases to set a deadline for a response to petitioner's habeas petition. *Erwin v. Elo*, 130 F. Supp. 2d 887, 891 (E.D. Mich. 2001); 28 U.S.C. § 2243. The court will therefore order Respondent to file an answer addressing the merits of Petitioner's claims, including all claims submitted in his briefs to the Michigan Court of Appeals and the Michigan Supreme Court, and the sentencing claim, within twenty-eight (28) days of this court's order.

The court also orders Respondent to provide any Rule 5 materials which have not already been provided to the court at the time he files his answer. The habeas corpus rules require Respondents to attach the relevant portions of the transcripts of the state court proceedings, if available, and the court may also order, on its own motion, or upon Petitioner's request, that further portions of the transcripts be furnished. *Burns v. Lafler*, 328 F. Supp.2d 711, 717 (E.D. Mich. 2004); Rules Governing § 2254 Cases, Rule 5, 28 U.S.C. foll. § 2254.

III. CONCLUSION

IT IS HEREBY ORDERED that Respondent shall file a supplemental answer addressing the merits of Petitioner's claims, including Petitioner's sentencing claim, and, any Rule 5 materials which have not yet been provided to the court, within twenty-eight

(28) days of this court's order. Petitioner shall then have forty-two (42) days in which to file any reply to Respondent's supplemental pleading.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: February 1, 2008

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, February 1, 2008, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522